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Minev, Green and Fox (NDOC Defendants)*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ZANE M. FLOYD,

Plaintiff,

v.

CHARLES DANIELS, DIRECTOR,
NEVADA DEPARTMENT OF
CORRECTIONS, ET AL.,

Defendants.

Case No. 3:21-cv-00176-RFB-CLB

**NOTICE OF FILING OF AMENDED
EM 110 ASSOCIATED WITH ECF NO.
93**

Defendants, Charles Daniels, Harold Wickham, William Gittere, William Reubart, David Drummond, Dr. Michael Minev, Dr. David Green, and Linda Fox (collectively, “NDOC Defendants”), by and through counsel, Aaron D. Ford, Attorney General for the State of Nevada, and D. Randall Gilmer, Chief Deputy Attorney General, respectfully submit this Notice of Filing of Amended EM 110 Associated with ECF No. 93.

The redacted Execution Manual effective June 9, 2021, was previously filed as bates stamp numbers RP00001 – RP00065. This current filing is to inform the public of three typographical errors discovered by NDOC after the finalization and publication of the protocol. Each of those errors were located in EM 110. All errors were corrected and the version being submitted herein has replaced the previous version of EM 110 which was filed on June 10, 2021 as ECF No. 93. This version corrects only the typographical errors

1 as noted in pages 1 and 7 of the protocol, bates stamped RP00055[AMENDED] -
2 RP00061[AMENDED], attached hereto as **Exhibit A**. This Notice is to ensure the Court
3 and the public have the proper, finalized, version in accordance with this Court's oral order
4 in the hearing held on June 10, 2021.

5 This amended version of EM 110 has been signed by Director Daniels as of June 21,
6 2021. NDOC will remove the previous version of the Protocol from its website and replace
7 with this amended version as soon as possible. Counsel of record were provided a copy of
8 the version prior to this filing.

9 NDOC further attests that there were no additional typographical errors and
10 therefore, no changes to the redacted portions of this document have been made. Should
11 the Court wish to have a copy of the amended EM 110 in confidential, unredacted form,
12 provided *in camera*, NDOC will be happy to provide it to this Court. However, to reiterate,
13 the only changes made to the confidential, unredacted version, was to make the same
14 typographical corrections that are contained in the version being filed herein.

15 Respectfully submitted this 21st day of June, 2021, by:

16 AARON D. FORD, Attorney General

17 By: /s/ D. Randall Gilmer
18 D. Randall Gilmer (Bar No. 14001)
19 Chief Deputy Attorney General
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EXHIBIT A –
REVISED AND
REDACTED
EXECUTION
MANUAL PORTION
110

NEVADA DEPARTMENT OF CORRECTIONS

EXECUTION MANUAL EM 110 EXECUTION PROCEDURE (REDACTED)

Effective Date: June 21, 2021 (Replaces June 9, 2021 Version Due to a Typographical Error in EM 110.01 (Heading – “Comdenmed” as opposed to Condemned), EM 110.02(D)(3)(d), 110.02(D)(3)(d)(i) and 110.02(D)(3)(d)(ii) as well as a Separate Typographical Error (12,500 mg as opposed to 25,000 mg) in EM 110.02(D)(3)(c)– No other changes made

CONFIDENTIAL IN UN-REDACTED FORMAT: YES

AUTHORITY AND RESPONSIBILITY

The Director and designated Deputy Director will ensure that this manual is accurately revised and published upon order of the Governor prior to a scheduled execution.

110.01 FINAL PREPARATION OF CONDEMNED INMATE

A. [REDACTED]

1. The Warden will ensure that the Execution Area Viewing Room blinds are closed and that the Viewing Room lights are at full illumination.

2. The [REDACTED] Team [REDACTED]

a. [REDACTED]

[REDACTED] officers will then move [REDACTED]
[REDACTED]

3. The condemned inmate is placed [REDACTED]
[REDACTED]

B. [REDACTED]

[REDACTED] will inform the Warden that the condemned inmate is ready to enter the Execution Area Chamber Room.

C. [REDACTED] with permission of the Warden, the inmate is escorted [REDACTED] to the Execution

Chamber Room [REDACTED], placed on the table and secured using soft restraints. The restraints that were used during escort will then be removed. A head support will be placed under the inmate's head and the table will be placed at a reverse Trendelenburg position. The [REDACTED] Team [REDACTED] will ensure the inmate is properly secured to the table and announce "inmate secured."

- D. [REDACTED] officers will post themselves in the Execution Chamber Room while the [REDACTED] Team [REDACTED] escorts [REDACTED] the EMT's into the Execution Chamber Room to set the IV lines and cardiac monitor leads.
1. The EMT will perform a venipuncture of both arms or alternate sites derived from the advice of the Attending Physician such as (in the order of preference) the condemned inmate's ankle, lower leg or neck.
 - a. Using the appropriate gauge needle/catheter set (18 or 20 depending upon the size and condition of the vein at the intended venipuncture site) the EMT will perform a venipuncture of the condemned inmate's right arm (or alternate site derived from the advice of the Attending Physician). The venipuncture site should be selected as distal on the extremity as possible which will also accommodate at least a 20 gauge needle/catheter set. Should that site prove unsuccessful, a site proximal on the arm can then be selected and a second venipuncture re-attempted. When the venipuncture of the right arm is successful, the EMT will withdraw and appropriately discard the needle, connect the catheter tubing to the IV line, remove the tourniquet on the condemned inmate's upper arm and then check the patency of the venipuncture.
 - i. The EMT will open the IV line flow-valve and observe for a free flow of saline inside the IV drip chamber.
 - ii. The EMT will also observe the IV site for any unwanted swelling, discoloration or fluid seeping at the venipuncture site. If any of these problems are observed, the EMT will discontinue the IV at that site. If no problems are observed, the catheter/IV line will be secured with sufficient tape and set the IV flow at a rate sufficient to keep the vein open.
 - b. The process set forth above in Section 110.01(D)(1)(a) will be repeated for the contralateral side or at another location on the same side to establish another adequate intravenous line.
 2. If the EMT is unable to find an adequate vein in an arm, the venipuncture will occur into a vein of an ankle, lower leg or neck as advised by the Attending Physician. Once established and secure, a normal saline solution will then be infused at a slow rate in order to keep the vein open.
 3. Once both venipunctures are successfully completed, cardiac leads will be attached to the condemned inmate by the EMT. The EMT will check [REDACTED] to ensure that the cardiac monitor is functioning properly. The cardiac monitor will then be turned off until the end of the process; there will be no dynamic cardiopulmonary electronic monitoring of the condemned inmate during the process.

- E. [REDACTED] once these tasks have been accomplished successfully, the [REDACTED] Team and the EMT [REDACTED] will then exit the Execution Area Chamber Room [REDACTED]. The only person remaining with the condemned inmate will be the Warden.
- F. [REDACTED] the Warden will direct the [REDACTED] Team [REDACTED] posted in the Execution Area Viewing Rooms to dim the lights. The Warden will then open the Execution Area Viewing Room blinds and advise the condemned inmate that those witnessing the execution may now hear his last words. A digital audio recorder will also record them.

110.02 EXECUTION OF CONDEMNED INMATE

- A. [REDACTED] the Director will positively contact the Attorney General/designee and the Governor/designee in person or on their direct lines [REDACTED] in order to confirm a possible stay of execution, order, pardon or commutation of sentence. If none exists, the Director will inform the Warden to proceed with the execution.
- B. Prior to the execution, the Warden will receive practical training in:
1. Measuring and reporting the condemned inmate's level of consciousness.
 2. Monitoring the IV sites for signs of compromise.
- C. Prior to the administration of lethal drugs, an Attending Physician or properly trained and qualified medical professional will enter the Execution Chamber Room behind a screen in order to monitor the condemned inmate's level of consciousness during the procedure.
- D. The Warden will instruct the Drug Administrators to begin injecting the lethal drugs into the condemned inmate as specified below.
1. It must be understood that after the infusion of the lethal drugs has begun the execution may still be stopped, but the inmate's respiratory and cardiovascular systems will be progressively more compromised.
 - a. If the execution is ordered to be stopped at any point after the infusion of the lethal drugs has begun, all reasonable attempts to save the inmate's life will be made by the Attending Physician and medical personnel present using equipment that will be made available for that possible contingency as noted in EM 104.01 – List of Needed Equipment, Materials and External/Internal Contacts.
 - b. If necessary, the inmate will be transported [REDACTED] to the nearest emergency room for further stabilization and medical care.
 2. If at any point, the Attending Physician determines that the condemned inmate's responses to the lethal drugs deviates from as expected, the Drug Administrators, Warden and Director will pause the procedure, close the Viewing Room window blinds and

consult with the Attending Physician. Following the consultation with the Attending Physician, the Director will then decide how to proceed from that point. If the execution is to continue, the Viewing Room blinds will be reopened before proceeding.

3. [REDACTED] in the following order and manner, a Drug Administrator will administer the lethal drugs while the Attending Physician and other medical personnel, assisted by the Warden in the Chamber Room, closely observes and measures the level of consciousness of the condemned inmate.
 - a. Throughout the procedure the Warden, Attending Physician, and other medical personnel will evaluate the patency of the IV sites by ensuring that the IV drip chambers show continuous steady drips and that the IV sites show no signs of compromise. If the patency of one of the IV's is believed to be compromised, the medical professionals will inform the Drug Administrators to use the other, patent IV site. If both IV's appear to be compromised, the Warden will then consult with the Attending Physician before allowing the EMT to proceed with steps to re-establish patent IV access.
 - b. After the contents of each syringe has been administered, the syringe will be removed from the injection port and the syringe/needle unit will be placed in a new, small sharps container labeled and provided for that purpose.
 - c. From Tray-1, a Drug Administrator will obtain either the Fentanyl or Alfentanil syringes #1-1 through #1-2 containing either 2,500 micrograms of Fentanyl or 25,000 micrograms of Alfentanil. The contents of the syringes will then be administered consecutively at the rate of one minute each.
 - i. Two minutes after injecting the last syringe of either Fentanyl or Alfentanil, the Attending Physician or other medical personnel will attempt to elicit an interpretable physical response to a verbal stimulus (i.e. move fingers, open eyes) and to a physical stimulus in the form of a medical grade pinch. If the condemned inmate does not respond to both attempts, the Attending Physician or other medical personnel will inform the Drug Administrator. The Drug Administrator will then begin injection of Ketamine.
 - ii. If, after the injection of the last syringe of Fentanyl or Alfentanil, the inmate shows a response to either stimulus, the Drug Administrator shall not proceed. The Director will consult with the Attending Physician. The Director will then decide the next course of action, which may include:
 1. Waiting and observing for an additional short period of time
 2. Initiating another IV
 3. Administering additional Fentanyl or Alfentanil to titrate to effect
 4. Halting the execution
 5. Begin with the injection of Ketamine if the IV is patent
 - iii. If the Director chooses actions 1, 2, and/or 3 above, after their completion the Attending Physician or other medical personnel will attempt to elicit an

interpretable physical response to a verbal stimulus (i.e. move fingers, open eyes) and to a physical stimulus in the form of a medical grade pinch. If the condemned inmate does not respond to both attempts, the Attending Physician or other medical personnel will inform the Drug Administrator. The Drug Administrator will then begin injection of Ketamine.

- d. From Tray-2, a Drug Administrator will obtain Ketamine syringes #2-1 containing 1,000 milligrams of Ketamine. The contents of the syringe will then be administered within two minutes.
 - i. One minute after the injection of 1,000 milligrams of Ketamine, the Attending Physician or other medical personnel will attempt to elicit a response to physical stimuli (in the form of a medical grade pinch) from the condemned inmate. If the condemned inmate does not respond to the physical stimulus, the injection of Ketamine will stop and, if the four-drug protocol is being used, the injection of Cis-atracurium will begin.
 - ii. If, after the injection of the 1,000 milligrams of Ketamine, the inmate shows a response to physical stimuli, the Drug Administrator shall not proceed. The Director will consult with the Attending Physician. The Director will then decide the next course of action, which may include:
 1. Waiting and observing for an additional short period of time
 2. Initiating another IV
 3. Administering additional Ketamine to titrate to effect.
 4. Halting the execution
 - v. If the Director chooses actions 1, 2, and/or 3 above, after their completion the Attending Physician or other medical personnel will attempt to elicit an interpretable physical response to a physical stimulus in the form of a medical grade pinch. If the condemned inmate does not respond, the Attending Physician or other medical personnel will inform the Drug Administrator. The Drug Administrator will then begin either injection of Cis-atracurium (if a four-drug protocol is being used) or Potassium (either Potassium Chloride or Potassium Acetate) (if the three-drug protocol is being used).
- e. From Tray-3, if utilizing the four-drug protocol, a Drug Administrator will obtain Cis-atracurium syringes #3-1 through #3-4 containing 200 milligrams of Cis-atracurium. The contents of all syringes will then be administered within one minute.
 - i. Two minutes after injecting the last syringe of Cis-atracurium, the Attending Physician or other medical personnel will attempt to elicit an interpretable physical response to a verbal stimulus (i.e. move fingers, thumbs up, open eyes) and to a physical stimulus in the form of a medical grade pinch. If the condemned inmate does not respond to both attempts, the Attending Physician or other medical personnel will inform the Drug Administrator. The Drug Administrator will then begin injection of either Potassium Chloride or Potassium Acetate.


- ii. If, after the injection of the last syringe of Cis-atracurium, the inmate shows a response to either stimulus, the Drug Administrator shall not proceed. The Director will consult with the Attending Physician. The Director will then decide the next course of action, which may include:
 - 1. Waiting and observing for an additional short period of time
 - 2. Initiating another IV
 - 3. Administering additional Cis-atracurium to titrate to effect.
 - 4. Halting the execution
 - 5. Begin with the injection of Potassium Chloride or Potassium Acetate if the IV is patent.
 - iii. If the Director chooses actions 1, 2, and/or 3 above, after their completion the Attending Physician or other medical personnel will attempt to elicit an interpretable physical response to a verbal stimulus (i.e. move fingers, thumbs up, open eyes) and to a physical stimulus in the form of a medical grade pinch. If the condemned inmate does not respond to both attempts, the Attending Physician or other medical personnel will inform the Drug Administrator. The Drug Administrator will then begin injection of Potassium Chloride or Potassium Acetate.
- f. From Tray-4, a Drug Administrator will obtain the syringes of Potassium Chloride or Potassium Acetate syringes #4-1 through #4-4 containing 240mEq Potassium Chloride or Potassium Acetate. The contents of all syringes will then be administered within two minutes. If a three-drug protocol has been used, then the Potassium Chloride or Potassium Acetate will be obtained from Tray-3 as opposed to Tray-4, as there will be no Tray-4. If the three-drug protocol is being utilized, the Potassium Chloride or Potassium Acetate will be labeled syringes #3-1 through #3-4 as opposed to #4-1 through #4-4. Under either the three-drug or four-drug protocol, the following steps are to be followed:
 - i. Five minutes after injecting the last syringe of Potassium Chloride or Potassium Acetate, the Attending Physician or other medical personnel will attempt to elicit an interpretable physical response to a verbal stimulus (i.e. move fingers, open eyes) and to a physical stimulus in the form of a medical grade pinch. If the condemned inmate does not respond to both attempts, the Attending Physician or other medical personnel in Workroom # 1 will then turn on the cardiac monitor. The Attending Physician or other medical personnel will observe it until all signs of electrical activity of the heart have ceased.
 - ii. If, at anytime after the final the injection of the last syringe of Potassium Chloride or Potassium Acetate, but before the cardiac monitor is turned on, the inmate shows any response to the stimulus referenced in the preceding paragraph, the Drug Administrator shall not proceed. The Director will consult with the Attending Physician. The Director will then decide the next course of action, which may include:
 - 1. Waiting and observing for an additional short period of time
 - 2. Initiating another IV

3. Administering additional Potassium Chloride or Potassium Acetate to titrate to effect.
 4. Halting the execution.
- iii. If the Director chooses actions 1, 2, and/or 3 above, after their completion the Attending Physician or other medical personnel will attempt to elicit an interpretable physical response to a verbal stimulus (i.e. move fingers, open eyes) and to a physical stimulus in the form of a medical grade pinch. If the condemned inmate does not respond to both attempts, the Attending Physician or other medical personnel in Workroom # 1 will then turn on the cardiac monitor. The Attending Physician or other medical personnel will observe it until all signs of electrical activity of the heart have ceased.
- E. When the lethal drugs have been injected as outlined above, and all electrical activity of the condemned inmate's heart has ceased (as shown by the cardiac monitor), and confirmed by the Attending Physician, the Coroner will be escorted to the execution room to confirm the condemned inmate is deceased and pronounce the time of death. Times recorded for the execution process will be recorded from clocks located in the Execution Area Chamber Room.
- F. Immediately following the Coroner's pronouncement of death the Warden will close the Execution Area Chamber Room blinds and direct the posted Observation Team members to fully illuminate their assigned Viewing Room lights.
- G. The two Drug Administrators who inject the lethal drugs into the IV lines will document the amount of each lethal drug administered and confirm that it was administered on form DRC 2001.

NO ATTACHMENTS: SEE CEM 112 FOR ALL EXECUTION RELATED FORMS

I, Charles Daniels, hereby state and declare that this Protocol, EM 110, was amended on June 21, 2021 To Correct Typographical Errors in a Heading in EM 110.01 ("Comdenmed" to Condemned), in Measurement (Milliliter to Milligram) in EM 110.02(D)(3)(d), EM 110.02(D)(3)(d)(i) and EM 110.02(D)(3)(d)(ii) and amount (12,500 mg to 25,000 mg) in EM 110.03(D)(3)(c). No Other Revisions to This Protocol or Other Protocols Contained in the June 9, 2021 Version Have Been Made.

Signature Authority:



Director Charles Daniels

6/21/21
Date